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CONTRACT FOR "SATISFACTORY" ARTICLE.—In *Pennington v. Howland*, (R. I.), 41 Atl. 890, it is held that an artist who contracts to paint a "satisfactory" portrait for defendant, cannot recover if the defendant is not satisfied with the work, no matter how abundant the evidence may be of the excellence of the portrait, since under such a contract the defendant is made sole judge. The court points out the familiar distinction between those cases where the work, stipulated to be satisfactory, is intended to gratify personal taste and convenience, in which the decision of the defendant, howsoever whimsical, is final, and cases where the elements of taste and personal judgment are wanting, and where it is generally sufficient to show that the work as done ought to be satisfactory, and would be to a reasonable person. The definition, however, has not been universally accepted, and some of the courts permit the promisor to reject, under a contract for satisfaction, even where the rejection is unreasonable, if he act in good faith. *McCurren v. McNulty*, 7 Gray, 139; *Gibson v. Cranage*, 39 Mich. 49; *Zaleski v. Clark*, 44 Conn. 218; *Brown v. Foster*, 113 Mass. 136; *Hawkins v. Graham*, 149 Mass. 284 (14 Am. St. Rep. 422); *Boiler Co. v. Garden*, 101 N. Y. 387 (54 Am. Rep. 711, and note); *Machine Co. v. Smith*, 50 Mich. 565 (15 N. W. 906); *McClure v. Briggs*, 58 Vt. 82 (2 Atl. 583); *D. M. Osborne & Co. v. Francis*, 38 W. Va. 312 (18 S. E. 591); *Doll v. Noble*, 116 N. Y. 230 (15 Am. St. Rep. 398 and note); Clark on Cont. 666.

In *Averitt v. Lipscombe*, 76 Va. 404, it was held that a vendee of real estate, who had contracted for a "satisfactory" title, might reject the title even though the court might be of opinion that it was good. Burks, J., who delivered the opinion, said: "It is immaterial that this court now considers that the vendors were and are able to make good a title. That is not the question. The contract left it to the purchaser to determine for himself the matter of title. If, on examination, he was not in good faith satisfied with the title, he was not to be bound. The bargain was at end." See also *Watts v. Holland*, 89 Va. 999.

RIGHT TO KILL ANIMALS DAMAGE FEASANT.—Persons charged with shooting firearms without reasonable excuse, in violation of an ordinance, are held, in *Chesterfield Ratliff* (S. C.), 41 L. R. A. 503, entitled to show that they were shooting at a rabbit in a corn patch, and that they had suffered from depredations of the rabbits, in order to present a reasonable excuse for the shooting. Whether the excuse was or was not reasonable is held to be a question for the jury.

The most learned and exhaustive opinion to be found in the books, on the right to kill animals *damage feasant*, is that by Doe, J., of the Supreme Court of New Hampshire, in *A drich v. Wright*, 53 N. H. 398 (16 Am. Rep. 339). The suit was to recover a statutory penalty for killing minks out of season. The defendant pleaded that the minks were chasing his geese. It seems to have been a bad day for minks, as the defendant killed four of them at a shot. There was no proof that minks were accustomed to kill geese, or that the defendant's geese were in imminent danger, or that they might not have been protected by merely frightening or driving off the minks. The amount of penalties involved was \$40.

Doe, J., delivered an opinion covering thirty pages, in which he vindicates the right of the defendant to kill the minks in spite of the statute, basing the decision principally upon the constitutional provision that "all men have certain natural, essential and inherent rights, among which are the enjoying and defending life

and liberty, possessing and protecting property." The opinion cites a multitude of authorities, from the Year Books down.

We have been informed by a member of the New Hampshire bar that this opinion probably cost the learned, but eccentric judge, a seat upon the bench of the Supreme Court of the United States. While his appointment was being seriously considered, the attention of the President was called to the opinion by friends of a rival candidate; and the expenditure of such a mass of energy and learning over so trivial a case, turned the scales in favor of the rival.

DAMAGES FOR BREACH OF STATUTE—VIOLATION OF CITY ORDINANCES.—It is a general principle that failure to conform to the requirements of a statute intended to protect the person and property of the citizen is itself negligence and actionable, if the proximate cause of an injury—or, as it is often expressed, the breach of a statute is actionable by any person injured thereby. See *Barnett v. Lynch*, 5 Barn. & Cres. 589; 3 Rob. (New) Prac. 425. And the Virginia Code (section 2900), declares that "any person injured by the violation of any statute, may recover from the offender such damages as he may sustain by reason of the violation." *W. U. Tel. Co. v. Reynolds*, 77 Va. 173, 178; *N. & W. R. Co. v. Irvine*, 84 Va. 553; *R. & D. R. Co. v. Noell*, 86 Va. 19.

Whether this rule is applicable to the breach of a city ordinance is not settled. The question was recently before the Supreme Court of Missouri, in the case of *Saunders v. Southern Electric Co.*, 48 S. W. 855, and was resolved in the negative. The court held that while the legislature may delegate to a municipal corporation the exercise of the police powers of the State, it cannot delegate the right to pass laws which will affect the rights of citizens *inter sese* in civil proceedings.

The case arose out of an effort to hold a street railway company responsible for injury to the plaintiff, without proof of other negligence than a failure to comply with a city ordinance, requiring certain extraordinary precautions to prevent injury to passengers in the street.

"The contention," says the court, "that the city has the right under its police powers to adopt the ordinance is not tenable. A city, to which a portion of the police powers of the State has been delegated, has a right to enact police regulations, and to punish their violation by fine and imprisonment; but it cannot, under the guise of the exercise of its police powers, create a liability from one citizen to another, or create 'a civil duty, enforceable at common law,' for this is 'the exercise of the power of sovereignty, belonging alone to the State.' The legislature may delegate a part of the police power of the State to a municipality, but it cannot delegate the legislative function of making laws that will be binding upon citizens, between themselves, in civil proceedings. The police regulations control the citizen in respect to his relations to the city, representing the public at large, and for this reason are enforceable by fine and imprisonment; but laws controlling the liability of the citizens *inter sese* must emanate from the legislature, in whom alone such power is vested by the constitution. *Norton v. City of St. Louis*, 97 Mo. 537, 11 S. W. 242; *City of St. Louis v. Connecticut Mut. Life Ins. Co.*, 107 Mo. 92, 17 S. W. 637; *Heeney v. Sprague*, 11 R. I. 456; *Railroad Co. v. Ervin*, 89 Pa. St. 71; *Vandyke v. City of Cincinnati*, 1 Disn. 532; *Flynn v. Canton Co.*, 40 Md. 312; *Jenks v. Williams*, 115 Mass. 217; *Kirby v. Association*, 14 Gray, 249."